

REMARKS

The Office Action mailed on July 29, 2008 has been received and reviewed. Claims 1-10 were rejected under 35 U.S.C. 101 as being directed to unpatentable subject matter. Claims 1 and 8-10 were rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. (US 20040015566 A1). The remaining claims were rejected under 35 U.S.C. 103(a) as being unpatentable over a variety of references including Anderson, Midgley et al. (US 20030074378 A1), Zhang et al. (US 20050120353 A1), Tripp (US 20050015466 A1), Wolff (US 6886035 B1), and James (US 6910038 B1).

Applicants thank the Examiner for engaging in a telephonic interview on Thursday, October 2, 2008 to discuss overcoming the rejections. During the interview, the Examiner provided guidance on overcoming the 35 U.S.C 101 rejections. Applicants' representatives also asserted that the prior art did not disclose GUI-based replication management tools that enable replication and deletion of data on a selected node in a grid. The Examiner agreed to review that assertion.

REJECTION OF CLAIMS 1-10 UNDER 35 U.S.C. 101

Per the discussion during the telephonic interview, Applicants have amended independent claim 1 to comply with the MPEP regarding a computer program. The MPEP states "When a computer program is recited in conjunction with a physical structure, such as a computer memory, USPTO personnel should treat the claim as a product claim." MPEP 2106.01(I). Applicants have amended Claim 1 to expedite prosecution by clarifying the physical structure and obviate the rejection under 35 U.S.C. § 101. Specifically, Claim 1 has been amended to clarify that the apparatus comprises "a computing node configured to execute a plurality of executable code modules, the executable code modules comprising ...". The remainder of the claim lists a variety of modules and the particular functions performed by those modules. Support for the amendment is found in the original specification. Applicants request that the rejection under 35 U.S.C. § 101 of independent claim 1 and dependent claims 2-10 be withdrawn.

REJECTION OF CLAIMS 1 AND 8-10 UNDER 35 U.S.C. 102(e)

The Office rejected Claims 1 and 8-10 under 35 U.S.C. 102(e) as being anticipated by Anderson. It is well settled that under 35 U.S.C. §102 “an invention is anticipated if . . . all the claim limitations [are] shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim. The identical invention must be shown in as complete detail as is contained in the patent claim.” *Richardson v. Suzuki Motor Co., Ltd.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). The following points of recognition will traverse the rejection by showing that every element of Applicants’ invention is not present in Anderson.

The Office Action asserts that Anderson discloses a GUI generation module “configured to examine user credentials and generate web-based graphical user interfaces to view data replications on multiple network nodes and enable a user to initiate modification or deletion of data on a selected node.” Anderson’s GUI generation module’s capability for allowing a user to view data is limited to attributes specific to an image, video, or music file. Specifically, Anderson references viewing the type of file and then being able to sort, if there are multiple results from a search. (Table 77, Anderson). Anderson discloses similar functionality for archived image, video, or music files. Anderson does not provide viewing of replicated data such as number of replications, location of replica, or time of replication. In contrast, Applicants’ invention provides node-specific management of data in a grid computing environment.

Additionally, Applicants’ invention provides for user input in regards to replication. That is, the user can identify the source and destination of a replication. Anderson is limited to the replication service incorporated into the CORBA bus. Anderson does not disclose obtaining information regarding archived data on a selected node, nor does it disclose invoking replications based on user input. While Anderson discloses invoking a generic replication service, Anderson does not require user input other than invoking the service itself. Applicants’ invention invokes a replication service, which is not limited to the service supplied by the CORBA bus. The graphical user interface of Applicants’ invention receives user input and passes that input to the replication service when it is invoked to identify what to replicate and where to replicate it.

Therefore, Applicants' respectfully assert that Anderson does not anticipate Applicants' Claim 1 because although both inventions supply a graphical user interface, the functionality and utility of the GUI is different. Anderson does not disclose a GUI with replication management tools to initiate modification or deletion of data on a selected node as specified in Applicants' claims. Consequently, Anderson does not anticipate Claim 1 and Claims 2-10 that depend therefrom.

REJECTION OF CLAIMS UNDER 35 U.S.C. 103(a)

Claims 11, 16, and 24 were rejected as being unpatentable over Midgley in view of Tripp in further view of Anderson. Claim 25 was rejected as being unpatentable over Midgley in view of James. The Examiner's basis for using Midgley to reject Claims 11, 16, and 24 is the same as that used to reject Claim 25. The Office has referenced Midgley in previous office actions for the Applicants' invention. Applicants continue to assert that Midgley is not directed to subject matter that will contribute useful prior art material to substantiate a rejection.

The Examiner claims that Midgley discloses "conducting the data replication operations in response to selections on the graphical user interface by the user." The GUI in Midgley is not used to conduct data replication. The GUI in Midgley is used to control "network consumption" by enabling a user to select a network consumption limit on bandwidth. The association with replication stems from the bandwidth being consumed by a replication process. The replication process requires regulation to limit the amount of data allowed to pass through at any given time to prevent the replication process from using too much bandwidth. Midgley does not disclose a GUI with data replication management controls. Rather, Midgley discloses a GUI with bandwidth management controls that can limit the bandwidth used by processes such as replication.

Anderson is combined to modify Midgley in view of Tripp in order to make obvious enabling a user to initiate modification or deletion of data on a selected node. However, as discussed earlier with regards to the 102(e) rejection, Anderson does not disclose a GUI with replication management tools to modify or delete data on a selected node.

Claims 11, 16, and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley in view of Tripp in further view of Anderson. However, because the disclosures relied

on in Midgley and Anderson have been shown to not enable Applicants' invention, Applicants assert that Claims 11, 16, and 24 should be allowed. Claim 25 was rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley in view of James. Similarly, because the disclosure relied on in Midgley has been shown to not enable Applicants' invention, Applicants assert that Claim 25 should be allowed. Applicants respectfully request that the claims depending from Claims 11, 16, and 25 also be allowed as depending from allowed claims.

CONCLUSION

Applicants assert that Anderson, Midgley, Zhang, Tripp, Flanagan, Wolff, and James do not disclose all of the limitations included in the claims as amended. Applicants therefore assert that each of the independent claims is in condition for allowance and respectfully request prompt allowance of the pending claims. In the event that the Examiner finds any remaining impediments to the prompt allowance of any of these claims which could be clarified in a telephone conference, the Examiner is respectfully urged to initiate the same with the undersigned.

Respectfully submitted,

Date: October 30, 2008

Kunzler & McKenzie
8 E. Broadway, Suite 600
Salt Lake City, Utah 84111
Telephone: 801/994-4646

/Brian C. Kunzler/
Brian C. Kunzler
Reg. No. 38,527
Attorney for Applicant